



1 PURSUANT TO LOCAL RULE 56 AND THIS COURT'S SCHEDULING  
2 ORDER, COMES NOW PLAINTIFF AND COUNTER-DEFENDANT OPULENT  
3 TREASURES, INC. and submits this Separate Statement of Uncontroverted Facts  
4 and Conclusions of Law in Support of its Motion for Partial Summary Judgment.  
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<u>Undisputed Fact:</u>	<u>Evidence:</u>
1. Opulent owns a valid copyright registration for VA 2-298-980 for its Round Cake Stand.	1. Declaration of Carol Wilson ("Wilson Decl."), ¶¶ 4–5, Exhibit A.
2. Opulent owns a valid copyright registration for VA 2-299-360 for its Chandelier Cupcake Cake/Cupcake/Desert Stand.	2. Wilson Decl., ¶¶ 4–5, Exhibit A.
3. Opulent owns a valid copyright registration for VA 2-299-364 for its Chandelier Cupcake Stand.	3. Wilson Decl., ¶¶ 4–5, Exhibit A.
4. Opulent owns a valid copyright registration for VA 2-299-366 for its 3 Tier Chandelier Dessert Stand.	4. Wilson Decl., ¶¶ 4–5, Exhibit A.
5. Opulent owns a valid copyright registration for VA 2-304-222 for its Set of 3 Square Chandelier Dessert Stand,	5. Wilson Decl., ¶¶ 4–5, Exhibit A.
6. Opulent owns a valid copyright registration for VA 2-308-419 for its Round Cake Stand with Crystals.	6. Wilson Decl., ¶¶ 4–5, Exhibit A.
7. Opulent owns a valid copyright registration for VA 2-309-157 for its Moroccan Jeweled Cake Stand Set.	7. Wilson Decl., ¶¶ 4–5, Exhibit A.
8. Opulent owns a valid copyright registration for VA 2-315-469 for its Blossom Display Arrangement.	8. Wilson Decl., ¶¶ 4–5, Exhibit A.

1	9. Illustration 1 depicts the visual 2 images for Opulent's copyrighted 3 designs ("Opulent Copyrights").	9. Wilson Decl., ¶ 4.
3	10. The Opulent Copyrights are original artistic works.	10. Wilson Decl., ¶¶ 3, 6–8.
4	11. Opulent holds a good faith belief 5 that the copyrights it owns are valid and enforceable.	11. Wilson Decl., ¶ 5.
6	12. Opulent holds a good-faith belief 7 that Ya Ya Creations was 8 infringing on its Copyright Designs and issued takedown notices to enforce its copyrights and prevent copyright infringement of its Copyright Designs.	12. Wilson Decl., ¶¶ 11–14.
11	13. Ya Ya Creations owns its warehouse in City of Industry, California.	13. Deposition of Mitchell Su ("Su Depo."), 122:5–8.
13	14. Ya Ya Logistics owns, manages, and maintains a warehouse in Florida.	14. Su Depo., 116:15–16.
15	15. [REDACTED]	15. Su Depo., 102:12–24; 116:23– 16 17:15; 126:14–27:1.
17	16. Ya Ya Logistics serves as Ya Ya Creations' East Coast warehousing and shipping company.	16. Su Depo., 116:15–16, 120:25–22:8
20	17. Ya Ya imports Accused Products from its China and Asia trading partners and inventories the Accused Products at both of Ya Ya's warehouses.	17. Su Depo., 120:25–22:8; 127:2–8.
23	18. Ya Ya Creations and Ya Logistics share the same CEO and owner, Mitchell Su.	18. Su Depo., 25:21–26:1; 116:15–22.
25	19. Mitchell Su is the 100% sole owner of both Ya Ya Creations and Ya Logistics	19. Su Depo., 25:21–26:1; 116:15–22.

20. Mitchell Su oversees operations at both the Ya Ya Creations and Ya Ya Logistics warehouses.	20. Su Depo., 107:2–10; 122:5–21.
21. The Ya Ya entities were established on both coasts for the purpose of expediting shipping to customers across the country.	21. Su Depo., 121:3–21.
22. Ya Ya Logistics and Ya Ya Creations share physical warehousing space to store and distribute products	22. Su Depo., 120:25–22:8; 127:2–8.
23. [REDACTED]	23. Su Depo., 107:2–10; 122:5–21.
24. After 2015, Mr. Su’s wife, Annie Suo, took over the company’s role as product buyer with general oversight by Mr. Su.	24. Deposition of Annie Suo (“Suo Depo.”), 17:24–18:2; 18:13–19:11; 21:11–23.
25. [REDACTED]	25. Suo Depo., 21:11–23; Su Depo., 107:2–10; 122:5–21.
26. The Ya Ya entities conduct their business with full knowledge and accordance with each other.	26. Su Depo., 107:2–10; 120:25–22:8; 122:5–21; Suo Depo., 18:13–19:11; 21:11–23.

## **PROPOSED CONCLUSIONS OF LAW**

<sup>1</sup> Ya Ya Creations is not entitled to declaratory judgment because it cannot overcome the presumption of validity of Opulent's Copyrights. 17 U.S.C. § 410(c); *United F. L. v. L'Witt Co.*, 620 F.3d 1255, 1257 (9th Cir. 2011).

2. There is no evidence sufficient to demonstrate a genuine issue of material fact that Opulent made misrepresentations in Violation of 17 U.S.C. section 512(f). *See, e.g., Rossi v. Motion Picture Ass'n of Am. Inc.* 391 F.3d 1000, 1004 (9th Cir. 2004).

1       3. There is no evidence sufficient to demonstrate a genuine issue of material fact  
2 that Opulent violated California's Unfair Competition Law ("UCL") California  
3 Business & Professions Code section 17200. *See, e.g., Cel-Tech Commc'ns, Inc. v.*  
4 *Los Angeles Cellular Tel. Co.*, 20 Cal. 4th 163, 186–87 (1999).

5       4. There is no evidence sufficient to demonstrate a genuine issue of material  
6 fact that Opulent interfered with Ya Ya Creation Inc.'s prospective economic  
7 advantage. *See, e.g., Korea Supply Co. v. Lockheed Martin Corp.*, 29 Cal. 4th 1134,  
8 1153 (2003).

9       5. There is no evidence sufficient to demonstrate a genuine issue of material  
10 fact that Opulent engaged in an independently wrongful act as required for a claim  
11 for interference with a prospective economic advantage. *See, e.g., Korea Supply Co.*  
12 *v. Lockheed Martin Corp.*, 29 Cal. 4th 1134, 1153 (2003).

13       6. The claims for interference with a prospective economic advantage and  
14 violation of UCL are preempted by federal law. *See e.g., Complex Media, Inc. v.*  
15 *XI7, Inc.*, No. CV1807588SJOAGRX, 2019 WL 2896117, at \*6 (C.D. Cal. Mar. 4,  
16 2019); *Amaretto Ranch Breedables, LLC v. Ozimals, Inc.*, No. C 10-05696, 2011 WL  
17 2690437, at \*4 (N.D. Cal. 2011); *Lenz v. Universal Music Corp.*, No. C 07-03783 JF,  
18 2008 WL 962102, at \*4 (N.D. Cal. Apr. 8, 2008); *Online Policy Group v. Diebold*,  
19 337 F. Supp. 2d 1195 (N.D. Cal. 2004).

20       7. Opulent owns valid copyrights on the Opulent Copyrights. 17 U.S.C. §  
21 410(c); *United Fabrics Int'l, Inc. v. C&J Wear, Inc.*, 630 F.3d 1255, 1257 (9th Cir.  
22 2011).

23       8. Ya Ya Logistics is vicariously or contributorily liable for any and all  
24 infringement committed by Ya Ya Creations. *Perfect 10, Inc. v. Visa Int'l Serv.*  
25 *Ass'n*, 494 F.3d 788, 795 (9th Cir. 2007).

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2 Dated: July 10, 2024

Respectfully submitted,

3 By: /s/ Robert D. Fish

4 Robert D. Fish, Esq. (SBN 149711)

5 Attorneys for Plaintiff and Counter-  
6 Defendant OPULENT TREASURES,  
7 INC.

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